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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|--------------------------|------------------------|
| 10/509,391 | 09/28/2004 | Guido Greco | Q83894 | 5839 |
| 23373 7590 12/20/2007 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037 | | | EXAMINER CHEN, JOSE V | |
| | | | ART UNIT 3637 | PAPER NUMBER |
| | | | MAIL DATE 12/20/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/509,391

Applicant(s)

GRECO ET AL.

Examiner

José V. Chen

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/28/04, 10/09/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-27 is/are pending in the application.
- 4a) Of the above claim(s) 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-19 and 21-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 09/28/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

It is requested that copies of the foreign reference filed in the IDS, be sent to this office.

Election/Restrictions

Applicant's election with traverse of figs. 1, 3, 4, claims 14-19, 21-27 in the reply filed on 10/09/07 is acknowledged. The traversal is on the ground(s) that the examiner has not provided reasons. This is not found persuasive because this is not a proper response to an election of species restriction as stated in the last Office action.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14-19, 21-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The expression "said side panels" (claim 14) have no definite antecedent basis in the claims. Claims 21-22 are indefinite in that they depend from cancelled claim 1. Clarification and correction are required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 14-19, 21, 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Limberger in view of Taub. The patent to Limberger teaches structure substantially as claimed including uprights (11), covering panels (16), upper, lower plates (figs. 1, 4), connection means (figs. 2, 3, 5), frontal zone, the connection means including channels and folded wings the only difference being that the covering panels are not in a curvature. However, the patent to Taub teaches the use of providing a curvature for the panels. It would have been obvious at the time of the invention to modify the structure of Limberger to include a curved surface side panel, as taught by Taub since such structures are conventional alternative structures used in the same intended purpose, and would have been a predictable result, thereby providing structure as claimed. The use of ties to brace structures are well known structures and the use of such would have been obvious and well within the level of ordinary skill in the art. Further, the method would have been obvious in view of the structures.

Claim 22, so far as definite, is rejected under 35 U.S.C. 103(a) as being unpatentable over Limberger in view of Taub as applied to the claims above, and further

in view of Rauls. The patent to Limberger in view of Taub teaches structure substantially as claimed as discussed above including a frontal zone, the only difference being that the frontal zone is not provided with a support that can be moved or tilted. However, the patent to Rauls (fig. 1) teaches such structure to be old. It would have been obvious and well within the level of ordinary skill in the art to modify the structure of Limberger in view of Taub to include a work surface that can be moved, as taught by Rauls, since such structures are conventional alternative structures used in the same intended purpose and would have been predictable, thereby providing structure as claimed.

Claims 23-24 rejected under 35 U.S.C. 103(a) as being unpatentable over Limberger in view of Taub as applied to the claims above, and further in view of Priesemuth. The patent to Limberger in view of Taub teaches structure substantially as claimed as discussed above including an upper plate, the only difference being that the plate does not include openings to house components. However, the patent to Priesemuth teaches the use of providing holding structure in the form of openings and coverings to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Limberger in view of Taub to include openings and coverings, as taught by Priesemuth since such structures are conventional alternative structures used in the same intended purpose thereby providing structure as claimed.

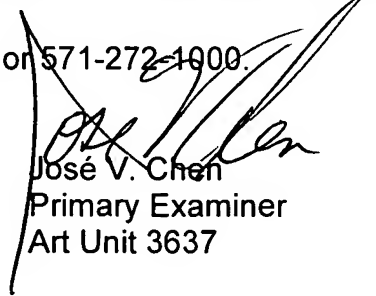
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Jackson, Kaut, Travis, Hassel et al, Collier, Frascaroli et al, Home, Pariente, Kramer teach structure similar to applicant's.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José V. Chen whose telephone number is (571)272-6865. The examiner can normally be reached on m-f,m-th 5:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571)272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


José V. Chen
Primary Examiner
Art Unit 3637

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12-18-07